

D.B. INCOME TAX APPEAL NO.143/2006
CIT, Bikaner Vs. Shri Vijay Kumar Bhola

Date : 14.02.2007

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE CHATRA RAM JAT

Mr. K.K. Bissa for the appellant.

Having heard learned counsel for the appellant we are of the opinion that no substantial question of law arises for consideration in this appeal.

The Tribunal on the basis of material available on record found that the old note book seized during the search and survey of the assessee's premises which took place on 3.1.2002 does not pertain to assessee's business since he came in charge of business and, therefore, on that premises no additions can be made in the income of the assessee for assessment year 2002-03. The alleged incriminating material was in the form of a note book which was not subjected to scrutiny at the time of survey. But during the course of assessment, it was put to the assessee and the assessee

was categorical in his statement that the said note book does not belong to the period since when he has been in the charge of his business. It is neither in the hand writing of the assessee nor in the hand writing of any member of his family or employee. There was nothing on record to rebut this statement of the assessee. The Tribunal, therefore, was of the opinion that when the assessee has surrendered his income from undisclosed source in respect of whatever assets found in his possession went in excess of what were disclosed in regular books of account at the time the search and survey and there is no foundation for making further additions on the basis of old diary which cannot be related to the assessee's business or to any assets found in possession of the assessee. No addition can be made on that behalf.

We are of the opinion that these are all findings of fact based on appreciation of evidence and does not give rise to any question of law.

Therefore, the appeal is dismissed in limine.

[CHATRA RAM JAT], J.

[RAJESH BALIA], J.

babulal/